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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/7932,532	09/17/97	DUVIAK	W P15733

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LM02/0122

EXAMINER

GELIN, J

ART UNIT	PAPER NUMBER
2744	

**DATE MAILED:** 01/22/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>08/932,532</b>	Applicant(s) <b>William Dovak et al.</b>
	Examiner <b>Jean A. Gelin</b>	Group Art Unit <b>2744</b>

Responsive to communication(s) filed on Sep 17, 1997

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-44 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-44 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2744

## DETAILED ACTION

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-8, 16, 18-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 9-17, 20, 22, 23 of U.S. Patent No. 5,717,737. Although the conflicting claims are not identical, they are not patentably distinct from each other because the broad claims in the continuation are broader than the ones in the patent. 214 U.S.P.O. 761 In re Van Ornum and Stanz.

3. Claims 9-15, 17, 25-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 4, 7-8 of U.S. Patent No. 5,717,737 in view of Mizikovsky.

Art Unit: 2744

Regarding to claim 9, Doviak et al. (U.S. Patent No. 5,717,737) discloses all claimed limitations except a system for determining link selection criteria; a selection system for dynamically selecting one of a plurality of incompatible wireless communications links in accordance with the link selection criteria; and a switching system for switching to the selected wireless communications link to use for data transport. However, the claimed limitations are very well known in the art of communications as evidenced by Mizikovsky.

Mizikovsky teaches a peripheral multi purpose interface to couple mobile station to peripheral devices such as facsimile device, multimedia terminal and so on (col. 7, lines 6-67). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have implemented the peripheral multi purpose interface taught by Mizikovsky within the system of Doviak in order to have access to cartographic display which comprises an electronic road map. Thus, user would be able to avoid traffic congestion (col. 7, lines 51-67). “With respect to claims 17, 25, 30, they have limitations similar to those discussed above, and hence are rejected as being unpatentable over Doviak et al. in view of Mizikovsky.”

Regarding to claims 10, 26, Doviak teaches the data is transported via a plurality of protocols comprising at least Internet Protocol (IP), and transparent protocol over the plurality of incompatible wireless communications links, the transportation of data being transparent to the remote device and an end user (claim 4).

Art Unit: 2744

Regarding to claims 11, 27, 28, Doviak further teaches comprising a system interfacing protocolized data into the plurality of incompatible wireless communications links using different protocols (claim 8).

Regarding to claim 12, Doviak et al. (U.S. Patent No. 5,717,737) discloses all claimed limitations except the switching system switches wireless communications links immediately after transporting a first data packet and before transporting a subsequent consecutive data packet.

On the other hand, Mizikovsky teaches the switching system switches wireless communications links immediately after transporting a first data packet and before transporting a subsequent consecutive data packet in order to switch from one peripheral device to another peripheral device (col. 7, line 6 to col. 8, line 65).

Regarding to claims 13, 29, Doviak et al. (U.S. Patent No. 5,717,737) discloses all claimed limitations except the system for determining link selection criteria comprises two classes of parameters.

However, the system of Mizikovsky inherently includes a system for determining link selection criteria comprises two classes of parameters wherein one class of parameter for transmission of facsimile message and another for receiving electronic road map (col. 7, lines 6-67).

Regarding to claim 14, Mizikovsky discloses the selection system further determines a next wireless communications link from the plurality of incompatible wireless communications

Art Unit: 2744

links in accordance with the link selection criteria when the selected wireless communications link becomes unavailable (col. 9, lines 4-63).

Regarding to claims 15, 31, Mizikovsky disclose comprising a monitoring system which monitors the availability of the plurality of incompatible wireless communications links to determine whether the next wireless communications link is available for data transport (col. 12, lines 1-67).

4. Claims 39-44 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 4, 7-8 of U.S. Patent No. 5,717,737 in view of Mizikovsky, further in view of Sharma et al. (Sharma).

Regarding to claims 39-44, Doviak et al. (U.S. Patent No. 5,717,737) and Mizikovsky disclose all claimed limitations except the data comprises digital data; the digital data comprises digital voice.

However, the transmission of information in digital data and digital voice is very well known in the art of communications as evidenced by Sharma. Sharma discloses a voice control digital signal processing to operate in conjunction with data/fax modem implemented with DSP a data pump (col. 2, lines 53-64). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have implemented the teaching of Sharma within the combination system of Doviak and Mizikovsky in order for user to transmit/receive multimedia package document which consists of a combination of picture information, digital data and digitized voice information (col. 11, lines 18-65).

Art Unit: 2744

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 32-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Mizikovsky.

Regarding to claims 32, 34 Mizikovsky teaches an apparatus for transporting data over a plurality of incompatible networks between a first device and a second device comprising: a system for determining network selection criteria (fig. 1); a selection system for dynamically selecting one of the plurality of incompatible networks in accordance with the network selection criteria, and a switching system for switching to the selected network to use for data transport (col. 7, line 6 to col. 8, line 65).

Regarding to claim 33, Mizikovsky teaches the data is transported via a plurality of protocols comprising at least Internet Protocol (IP), and transparent protocol over the plurality of incompatible networks, the transportation of data being transparent to the devices and an end user (col. 9, lines 22-33).

Regarding to claim 35, Mizikovsky teaches the switching system switches networks immediately after transporting a first data packet and before transporting a subsequent consecutive data packet (col. 7, line 6 to col. 5, line 65).

Art Unit: 2744

Regarding to claim 36, the system of Mizikovsky inherently includes a system for determining link selection criteria comprises two classes of parameters wherein one class of parameter for transmission of facsimile message and another for receiving electronic road map (col. 7, lines 6-67).

Regarding to claim 37, Mizikovsky teaches the selection system further determines a next network from the plurality of incompatible networks in accordance with the network selection criteria when the selected network becomes unavailable (col. 9, lines 4-63).

Regarding to claim 38, Mizikovsky teaches a monitoring system which monitors the availability of the plurality of incompatible networks to determine whether the next network is available for data transport (col. 12, lines 1-67).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Miller, et al. teaches Digital Cellular Overlay Network (DCON).

Kamm, et al. teaches data gateway for mobile data radio terminals in a data communication network.

Dunn teaches system for location of communication end users.

Teder, et al. teaches time alignment of transmission in a down-link of CDMA system.

Art Unit: 2744

Haartsen, et al. teaches methods and systems for allocating a cellular communications channel for communication between a cellular terminal and a telephone base station using received signal strength measurements.

Chavez, Jr., et al. teaches infrastructure equipment in a wireless communication system serves different service providers.

Kay, et al. teaches combined fixed and mobile radio communication system and method.

Lantto teaches method and arrangement for handling a mobile telephone subscriber administered in different mobile telephone networks with a common call number.

### ***Conclusion***

**8. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**Or:**

(703) 305-9508 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).*

• Art Unit: 2744

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (703) 305-4847.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

J. Gelin

January 6, 1999

J. G.



DWAYNE D. BOST  
SUPERVISORY PATENT EXAMINER  
GROUP 2700